

MAR 11 2025

for the Northern Mariana Islands
By *ad*
(Deputy Clerk)

Paul Murphy

) Case No.: 1-24-cv-00017

Plaintiff,

VS.

ANTHONY IGLECIAS MACARANAS, in his
official capacity as Commissioner of the
Department of Public Safety of the
COMMONWEALTH OF THE NORTHERN
MARIANA ISLANDS (CNMI),

MEMORANDUM IN OPPOSITION TO
DEFENDANT'S MOTION TO DISMISS

Defendant.

DATED: March 11, 2025

Paul Murphy
Pro Se

1 Plaintiff, Paul Murphy, Pro Se, submit the following points and authorities in opposition to
2 the motion of the defendant ANTHONY IGLECIAS MACARANAS, in his official capacity as
3 Commissioner of the Department of Public Safety of the Commonwealth of the Northern Mariana
4 Islands (CNMI) to dismiss this action for improper service of the summons and complaint under
5 Federal Rules of Civil Procedure 4 and 12 (b)(5).

6 7 SUMMARY OF THE PLEADINGS

8 The Plaintiff in this action seeks a declaration from this Court that the ban on suppressors
9 and sound moderators in the CNMI is unconstitutional. The Plaintiff also requests a permanent
10 injunction preventing the Commissioner of the Department of Public Safety, Anthony Iglecias
11 Macaranas, from enforcing these laws. Additionally, the Plaintiff seeks any other relief the Court
12 deems just and proper.

13 The Defendant now seeks to dismiss the action altogether on the grounds that the Plaintiff
14 failed to properly effect service in compliance with Rules governing individual service (Rule 4(j))
15 and that 6 CMC § 2222 no longer exists and thus the Court cannot grant the relief sought. The
16 Defendant proposes that the pertinent question before the Court is whether a defendant, who is
17 being sued in his official capacity as opposed to being sued in an individual capacity must be served
18 in compliance with Rules governing individual service (Rule 4(e)) or the rules governing service on
19 the state (Rule 4(j)).

20 LEGAL ARGUMENT

21 **I) Plaintiff concedes that under Rule 4(j) service was not completed and submitted**
22 **a stamped and signed copy of the summons cover sheet showing the delivery of**
23 **the completed summons and complaint to the CNMI Office of Attorney**
24 **General.**

25 Plaintiff relied on a process server to properly serve Defendant in accordance with the
26 Federal Rules of Civil Procedure. However, service was delayed, and Plaintiff was initially unable
27 to get in contact with the process server to complete the summons in a timely fashion and to
28 obtain the completed summons from the process server. Plaintiff subsequently obtained a copy

1 from the court and later received the cover page from the process server. The completed summons
 2 was ultimately delivered to the CNMI Attorney General's Office, as shown in the attachment
 3 (Attached as Exhibit 1) to this memorandum. Plaintiff is making a good faith effort to comply
 4 with the FRCP and prays this court accept this as a fulfillment of service under the FRCP.

5
 6 **II) Plaintiff concedes that 6 CMC § 2222 was repealed in PL 19-73 Section 3.**

7
 8 **III) The Allegations of the Complaint are Sufficient to Establish the Existence of an**
 9 **Actual Controversy Over the Exercise of Constitutional Rights, Warranting**
 10 **Declaratory Relief, Injunctive Relief, or Both.**

11 Federal Rule of Civil Procedure 8(a)(2) requires only 'a short and plain statement of
 12 the claim showing that the pleader is entitled to relief.' Fed.R.Civ.P. 8(a)(2). '[O]rdinary
 13 pleading rules are not meant to impose a great burden upon a plaintiff.' *Dura Pharms., Inc.*
 14 *v. Broudo*, 544 U.S. 336, 347, 125 S.Ct. 1627, 161 L.Ed.2d 577 (2005). 'Specific facts are
 15 not necessary; the statement need only "give the defendant fair notice of what the . . . claim
 16 is and the grounds upon which it rests.' *Erickson v. Pardus*, 551 U.S. 89, 127 S.Ct. 2197,
 17 2200, 167 L.Ed.2d 1081 (2007) (per curiam) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S.
 18 544, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007)). The Court must accept as true all
 19 factual allegations in the complaint and must draw all reasonable inferences from those
 20 allegations, construing the complaint in the light most favorable to the plaintiff. *Westlands*
 21 *Water Dist. v. Firebaugh Canal*, 10 F.3d 667, 670 (9th Cir. 1993). Dismissal without leave to
 22 amend is appropriate only when the Court is satisfied that the deficiencies of the complaint
 23 could not possibly be cured by amendment. *Jackson v. Carey*, 353 F.3d 750, 758 (9th Cir.
 24 2003) [and additional citations]. *Id.*, 582 F.Supp.2d at p. 1265.

25
 26 Here, the relief sought is declaratory relief or injunctive relief, as the Court eventually
 27 determines to be appropriate. To establish an entitlement to such relief for pleading purposes, a
 28

1 plaintiff need only describe the existence of a genuine legal dispute over a matter within the
2 jurisdiction of the Court.

3 ‘Proceedings under the Declaratory Judgment Act are governed by the same pleading
4 standards that are applied in other federal civil actions.’ [Citation.] The plaintiff must allege
5 a ‘justiciable controversy’ in order to state a claim for declaratory relief. ... Maryland Gas.
6 Co. v. Pacific Coal & Oil Co., 312 U.S. 270, 61 S.Ct. 510 (1941)); Aetna Life Ins. Co. v.
7 Haworth, 300 U.S. 227, 57 S.Ct. 461 (1937); Tennessee Coal, Iron & R. Co. v. Muscoda
8 Local No. 123, etc., 137 F.2d 176 (5th Cir. 1943) aff’d 321 U.S. 590 (1944). The complaint
9 must disclose ‘a legal right, relation, status, or interest claimed by plaintiff over which a
10 dispute with the defendant has arisen.’ ... Paper Carriers Union No. 450 v. Pulitzer Pub. Co.,
11 309 F.2d 716 (8th Cir. 1962)); see also Aralac, Inc. v. Hat Corp. of America, 166 F.2d 286
12 (3rd Cir. 1948). The Declaratory Judgment Act is a procedural statute providing an
13 additional remedy in which the federal courts already have jurisdiction, and should be given
14 a liberal interpretation. Tennessee Coal, Iron & R. Co. v. Muscoda Local No. 123, supra,
15 137 F.2d at 179.

16 Heimann v. National Elevator Industry Pension Fund 187 F.3d 493, 510-511 (5th Cir. 1999). The
17 Declaratory Judgment statute, 28 U.S.C. § 2201, provides in relevant part:

18 (a) In a case of actual controversy within its jurisdiction, ... any court of the United
19 States, upon the filing of an appropriate pleading, may declare the rights and other legal
20 relations of any interested party seeking such declaration, whether or not further relief is or
21 could be sought. Any such declaration shall have the force and effect of a final judgment or
22 decree and shall be reviewable as such.

23 The complaint in a declaratory judgment action must therefore allege facts showing existence of an
24 “actual controversy” and that the controversy bears upon a matter within the court’s subject matter
25 jurisdiction.

26 At the heart of this case is the existence and extent of the plaintiff’s right to keep and bear
27 arms guaranteed by the Second Amendment to the Constitution. The plaintiff has been denied
28 firearms possession of a Maxim Defense PDX-SD pistol chambered in 5.56 NATO with a built in

1 “soup can” suppressor, Banish 30 suppressor, and a Ruger MKIV-SD Integral Suppressor 22 caliber
2 pistol. The pertinent question before the Court is does the ban on firearms with silencers,
3 suppressors, and sound moderators; and instruments which constitute bearable arms namely
4 silencers, suppressors, and sound moderators themselves violate the Second and Fourteenth
5 Amendments to the United States Constitution.

6 This is a federal question squarely within the Court’s jurisdiction pursuant to 28 U.S.C.
7 §1331 and 28 U.S.C. §1343(a)(3). This controversy is ripe for review and determination in this
8 Court, and facts sufficient to invoke that relief, and possibly additional relief by injunction, are
9 framed in the complaint. This motion to dismiss can and should be denied.

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12 Dated: *March 10, 2025*

Respectfully submitted by:



Paul Murphy, PRO SE